

HOUSE BILL NO. 399

INTRODUCED BY RICE, BUTCHER, SALES, BARRETT, WAITSCHIES, PETERSON

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT A WEATHER MODIFICATION OPERATION MAY NOT START BEFORE NOVEMBER 1 OR END AFTER MARCH 15; EXEMPTING WEATHER MODIFICATION FROM THE REQUIREMENTS OF THE MONTANA ENVIRONMENT POLICY ACT AND FROM ENVIRONMENTAL IMPACT STATEMENTS; REQUIRING PUBLIC NOTICE OF INTENTION TO CONDUCT WEATHER MODIFICATION ACTIVITIES; ELIMINATING PUBLIC HEARINGS; AND PERMIT FEES, AND PROOF OF FINANCIAL RESPONSIBILITY BY AN APPLICANT; AMENDING SECTIONS 85-3-101, 85-3-201, 85-3-204, 85-3-210, 85-3-211, 85-3-213, 85-3-214, 85-3-301, AND 85-3-302, MCA; REPEALING SECTIONS 85-3-102, 85-3-202, 85-3-206, 85-3-207, 85-3-208, 85-3-214, AND 85-3-212, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Term of operation.** An operation may not start before November 1 or end after March 15.

Section 2. Section 85-3-101, MCA, is amended to read:

"85-3-101. Definitions. Unless the context requires otherwise, in this chapter, the following definitions apply:

(1) "Department" means the department of natural resources and conservation provided for in Title 2, chapter 15, part 33.

(2) "Operation" means the performance, for the benefit of Montana, of weather modification and control activities affecting orographic clouds in mountainous regions entered into for the purpose of producing or attempting to produce a certain modifying effect within one geographical area over one continuing time interval, as provided in [section 1] not exceeding 1 year.

(3) "Research and development" means theoretical analysis, exploration, and experimentation and the extension of investigative findings and theories of a scientific and technical nature into practical application for experimental and demonstration purposes, including the experimental production and testing of models, devices,

1 equipment, materials, and processes.

2 (4) "Weather modification and control" means changing or controlling or attempting to change or control,
3 by artificial methods, the natural development of atmospheric cloud forms or precipitation forms that occur in the
4 troposphere."

5

6 **Section 3.** Section 85-3-201, MCA, is amended to read:

7 **"85-3-201. License ~~and permit~~ required for weather modification and control.** (1) A person may
8 not engage in activities for weather modification and control except under and in accordance with a license ~~and~~
9 ~~a permit~~ issued by the department authorizing the activities.

10 (2) Issuance of a license pursuant to this chapter is exempt from the requirements of Title 75, chapter
11 1, parts 1 and 2.

12 (3) A PERSON MAY NOT ENGAGE IN ACTIVITIES FOR WEATHER MODIFICATION AND CONTROL UNTIL THE
13 DEPARTMENT RECEIVES PROOF OF FINANCIAL RESPONSIBILITY AS PROVIDED IN 85-3-211."

14

15 **Section 4.** Section 85-3-204, MCA, is amended to read:

16 **"85-3-204. Licenses -- term and renewal.** The license ~~shall~~ must be issued for a period to expire on
17 July 1 of each year ~~at the end of the calendar year in which it is issued~~ and, if the licensee possesses the
18 qualifications necessary for the issuance of a new license, ~~shall~~ must upon application be renewed at the
19 expiration of the period AND UPON PROOF THAT A LIABILITY INSURANCE POLICY HAS BEEN OBTAINED PURSUANT TO
20 85-3-211."

21

22 **Section 5.** Section 85-3-210, MCA, is amended to read:

23 **"85-3-210. Publication of notice of intention.** (1) ~~The department shall have the notice of intention,~~
24 ~~or that portion thereof including the items specified in 85-3-209,~~ Notice of intention to conduct weather
25 modification activities must be published by the license holder conducting the operation at least once a week
26 for 2 consecutive weeks in a newspaper having a general circulation and published within any county in which
27 the operation is to be conducted and in which the affected area is located; or, if the operation is to be conducted
28 in more than one county or if the affected area is located in more than one county or is located in a county other
29 than the one in which the operation is to be conducted, ~~then~~ in newspapers having a general circulation and
30 published within each of the counties.

1 ~~(2) The applicant shall reimburse the department for the costs of publication of the notice of intention."~~

2
3 **SECTION 6. SECTION 85-3-211, MCA, IS AMENDED TO READ:**

4 **"85-3-211. Proof of financial responsibility by applicant.** Proof of financial responsibility ~~may~~ must
5 be furnished by an applicant by showing, to the satisfaction of the department, ~~the applicant's ability to respond~~
6 ~~in damages for liability that might reasonably be attached to or result from the applicant's weather modification~~
7 ~~and control activities~~ that the applicant has obtained a liability insurance policy of at least \$100,000."

8
9 **Section 7.** Section 85-3-213, MCA, is amended to read:

10 **"85-3-213. State special revenue fund.** All license ~~and permit~~ fees and fines collected under this
11 chapter, other than those collected in a justice's court, ~~shall~~ must be deposited in the state special revenue fund
12 for use by the department in the administration of this chapter or as appropriated by the legislature."

13
14 **Section 8.** Section 85-3-214, MCA, is amended to read:

15 **"85-3-214. Termination of licenses and permits.** After notice to the licensee and a reasonable
16 opportunity for a hearing, the department may modify, suspend, revoke, or refuse to renew any license ~~or permit~~
17 issued if it appears that the licensee no longer possesses the qualifications necessary, if it appears that the
18 licensee has violated any of the provisions of this chapter, or, in the case of a modification, if it appears that it
19 is necessary for the protection of the health or the property of any person."

20
21 **Section 9.** Section 85-3-301, MCA, is amended to read:

22 **"85-3-301. Records of operations maintained by licensees.** ~~Every~~ Each licensee shall keep and
23 maintain a record of all operations conducted by ~~him~~ the licensee under ~~his~~ the licensee's license ~~and each~~
24 ~~permit~~, showing:

- 25 (1) ~~the~~ method employed;
- 26 (2) type of equipment used;
- 27 (3) kinds and amounts of material used;
- 28 (4) times and places of operation of the equipment;
- 29 (5) names and addresses of all individuals participating or assisting in the operation;
- 30 (6) any other general information ~~as~~ that the department may require."

